

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:
440 WEST 164TH STREET HOUSING
DEVELOPMENT FUND CORPORATION,

Chapter 11
Case No. 15-20003 (RDD)

Debtor.

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LOTHAR KROLL, ANDREAS KROLL, INNA
KHITERER and SERGEI LEONTEV, individually
and derivatively as shareholders of
440 WEST 164TH STREET HDFC,

Plaintiff,

-against-

Adv. Proc. No. 15-08277 (RDD)

440 WEST 164TH STREET HDFC, FIA 164TH ST
HOLDINGS LLC a/k/a FIA 164 HOLDINGS LLC,
SAC 4902071714, LLC, MARK SCHWARTZ,
DAVID GOLDWASSER, CITY OF NEW YORK,

Defendants.

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**CONSENT ORDER REMANDING CERTAIN
MATTERS TO STATE SUPREME COURT**

Upon the motion of Riverside Abstract LLC (“Riverside”), filed on June 11, 2015 (the “Motion”), seeking the entry of an order, pursuant to 28 U.S.C. § 1452(B), remanding the above-captioned adversary proceeding which was removed by plaintiff Inna Khiterer (“Khiterer”) on May 21, 2015 from the Supreme Court of the State of New York, New York County (the “State Supreme Court”), where it had pending under Index No. 653885/2014 (the “Removed Action”); and the State Supreme Court having, by Decision and Order dated April 15, 2015 (the “April 15, 2015 Order”) (Exhibit 5 to the Motion; Exhibit F to Khiterer’s Notice of Removal), dismissed Riverside from the Removed Action and severed Riverside’s claim for attorney’s fees and/or expenses as against Khiterer and defendant FIA 164 Holdings LLC a/k/a FIA 164th St. Holdings LLC (the “Riverside Claim”); and Khiterer having filed a Notice of

Appeal from the April 15, 2015 Order; and Khiterer, by and through her undersigned counsel, having consented to the relief sought by way of the Motion (subsequent to the filing of the Motion) to the limited extent provided for under this Consent Order; and no objection to the Motion having been made; and after due deliberation; and sufficient cause appearing therefor; it is hereby

ORDERED, that the Motion is granted to the extent set forth herein; and it is further

ORDERED, that the Removed Action be and hereby is remanded to the State Supreme Court, but only with regard to the Riverside Claim and those claims and defenses, if any, otherwise concerning Riverside; and it is further

ORDERED, that this Consent Order shall not affect any matters at issue in the Removed Action other than the Riverside Claim.

Dated: White Plains, New York
July 22, 2015

/s/Robert D. Drain
HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

No Objection to Form of Order:

PICK & ZABICKI LLP
Counsel to Plaintiff

By: /s/Douglas J. Pick
Douglas J. Pick
369 Lexington Avenue, 12th Floor
New York, New York 10017
(212) 695-6000